

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

JOHN ROBIN DURRANCE,

Plaintiff,

VS.

Warden VICTOR L. WALKER,

Defendant.

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NO. 5:11-CV-369 (MTT)

ORDER

Plaintiff **JOHN ROBIN DURRANCE**, an inmate at Hancock State Prison (“HSP”), filed a civil rights complaint under 42 U.S.C. § 1983. He now moves for voluntary dismissal of this action (Doc. 11). Under Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, a plaintiff may voluntarily his action “before the opposing party serves either an answer or a motion for summary judgment[.]” Defendant has not yet served an answer or a motion for summary judgment. Accordingly, Plaintiff’s motion to dismiss is hereby **GRANTED** and the above-captioned action is **DISMISSED WITHOUT PREJUDICE**. The Court’s prior Order that Plaintiff pay the \$350.00 filing fee (Doc. 8) is hereby **VACATED**. The Clerk of Court is **DIRECTED** to send a copy of this Order to HSP, so that funds will not be withheld from Plaintiff’s account.

SO ORDERED, this 5th day of December, 2011.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT

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